

TAB U

PROGRAM MEMORANDUM INTERMEDIARIES/CARRIERS

Department of Health
and Human Services

Health Care Financing
Administration

Transmittal No. AB-97-25

Date JANUARY 1998

CHANGE REQUEST #298

SUBJECT: Implementation of the New Payment Limit for Drugs and Biologicals

The purpose of this memorandum is to furnish you with instructions needed to implement \$4556 of the Balanced Budget Act of 1997. This section provides that drugs and biologicals be paid at the lower of the billed charge or 95 percent of the average wholesale price (AWP) as described below.

Payments for Drugs and Biologicals

Currently, drugs and biologicals not paid on a cost or prospective payment basis are paid based on the lower of the billed charge or the AWP as reflected in sources such as the Red Book, Blue Book, or Medispan. Examples of drugs that are paid on this basis are drugs furnished incident to a physician's service, drugs furnished by pharmacies under the durable medical equipment (DME) benefit, covered oral anti-cancer drugs, and drugs furnished by independent dialysis facilities that are not included in the end stage renal disease (ESRD) composite rate payment.

Effective January 1, 1998, pay for drugs and biologicals not paid on a cost or prospective payment basis at the lower of the billed charge or 95 percent of the AWP. This change in payment allowance recognizes the fact that the AWP is not a true discounted price and, therefore, does not reflect the cost to the physician or supplier furnishing the drug to the Medicare beneficiary. Part B deductible and coinsurance requirements apply.

Intermediary Processed Claims

In some regions, both fiscal intermediaries and carriers update drug payment allowances, including drugs paid outside the ESRD composite rate. This current method of pricing represents an unnecessary duplication of effort by our contractors. To eliminate this duplication and to ensure uniform pricing of drugs, effective January 1, 1998, all carriers will furnish their drug payment allowance updates for all drugs and biologicals directly to the fiscal intermediaries in their jurisdiction free of charge.

Carriers should contact the fiscal intermediaries to determine the preferred method of transmission. Carriers are to send this information to all fiscal intermediaries they routinely deal with. If this method of obtaining payment allowance updates does not work for any intermediary, contact your appropriate regional office immediately.

Calculation of the AWP

1. For a single-source drug, the AWP equals the AWP of the single product.
2. For a multi-source drug, the AWP is equal to the median AWP of all of the generic forms of the drug unless the brand name product AWP is priced below this median. If the brand name product AWP is lower than the median of the generic AWP's, calculate a new median with the brand AWP included.
3. After determining the AWP, multiply it by 0.95. This is the new drug payment allowance limit. Do not round this payment allowance limit. There is no minimum for this amount.

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Defendants' Exhibit

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These instructions replace the current payment calculation instructions in §5202 of the Medicare Carriers Manual, §3644.E of the Medicare Intermediary Manual, §2711.2.B.2 of the Provider Reimbursement Manual, Part 1, Chapter 27, and §319.1 of the Renal Dialysis Facility Manual. Manual revisions will be issued soon.

These instructions should be implemented within your current operating budget.

This Program Memorandum may be discarded June 30, 1998.

Contact person for this Program Memorandum is Robert Niemann at (410) 786-4569.